

ARTICLE I
PURPOSE AND PRINCIPLE

Section 101: TITLE

This multistate Agreement shall be referred to, cited, and known as the Streamlined Sales and Use Tax Agreement.

Section 102: FUNDAMENTAL PURPOSE

It is the purpose of this Agreement to simplify and modernize sales and use tax administration in the member states in order to substantially reduce the burden of tax compliance. The Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

- A. State level administration of sales and use tax collections.
- B. Uniformity in the state and local tax bases.
- C. Uniformity of major tax base definitions.
- D. Central, electronic registration system for all member states.
- E. Simplification of state and local tax rates.
- F. Uniform sourcing rules for all taxable transactions.
- G. Simplified administration of exemptions.
- H. Simplified tax returns.
- I. Simplification of tax remittances.
- J. Protection of consumer privacy.

Section 103: TAXING AUTHORITY PRESERVED

This Agreement shall not be construed as intending to influence a member state to impose a tax on or provide an exemption from tax for any item or service. However, if a member state chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions concerning definitions as set out in Article III of this Agreement.

1 **“Prepared food”** means:

- 2 A. Food sold in a heated state or heated by the seller;
- 3 B. Two or more food ingredients mixed or combined by the seller for sale as a single
- 4 item; or
- 5 C. Food sold with eating utensils provided by the seller, including plates, knives, forks,
- 6 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
- 7 packaging used to transport the food.

8 “Prepared food” in B does not include food that is only cut, repackaged, or pasteurized by the

9 seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring

10 cooking by the consumer as recommended by the Food and Drug Administration in chapter

11 3, part 401.11 of its Food Code so as to prevent food borne illnesses.

12

13 The following items may be taxed differently than “prepared food” and each other, if sold

14 without eating utensils provided by the seller, but may not be taxed differently than the same

15 item when classified under “food and food ingredients.”

- 16 1. Food sold by a seller whose proper primary NAICS classification is
- 17 manufacturing in sector 311, except subsector 3118 (bakeries).
- 18 2. Food sold in an unheated state by weight or volume as a single item.
- 19 3. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants,
- 20 pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies,
- 21 tortillas.

22 Substances within “food and food ingredients” may be taxed differently if sold as “prepared

23 food.” A state shall tax or exempt from taxation “candy,” dietary supplements,” and “soft

24 drinks” that are sold as “prepared food” in the same manner as it treats other substances that

25 are sold as “prepared food.”

26

27 *Compiler’s note: The Governing Board issued an interpretation of the definition of “prepared food” on*

28 *April 18, 2006. That interpretation can be found in the Library of Interpretations. Compiler’s note: The*

29 *Governing Board issued an interpretation of “prepared food” on December 14, 2006. That interpretation*

30 *can be found in the Library of Interpretations.*

City of Great Falls

[illegible]

City of Billings

[illegible]

City of Missoula

	(B)		(B)		(B)
Total All Revenue	\$84,115,603	-9.57%	\$76,061,849	18.51%	\$90,138,049
% Change over period				7.16%	

City of Helena

[illegible]

City of Kalispell

[illegible]

City of Bozeman

[illegible]

HOUSE BILL NO. 235

INTRODUCED BY E. DUTTON

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2
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING BUSINESS IMPROVEMENT DISTRICT PURPOSES
5 TO INCLUDE TOURISM, PROMOTION, AND MARKETING, ~~AND SALES~~; REVISING OPTIONS FOR
6 ASSESSMENT OF COSTS TO INCLUDE FLAT-FEE OPTIONS; PROVIDING FOR DISTRICTS COMPOSED
7 OF NONCONTIGUOUS AREAS IF PROPERTY IS RELATED BY PURPOSE; ALLOWING CLASSIFICATION
8 CRITERIA TO BE USED IN ASSESSING COSTS; AND AMENDING SECTIONS 7-12-1102, 7-12-1111,
9 7-12-1121, 7-12-1132, AND 7-12-1133, MCA."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 **Section 1.** Section 7-12-1102, MCA, is amended to read:

14 **"7-12-1102. Purpose.** The purpose of this part is to provide for the creation of business improvement
15 districts having one or more of the purposes and powers provided in this part that will;

16

(1) serve a public use; ~~will~~

17

(2) promote the health, safety, prosperity, security, and general welfare of the inhabitants ~~thereof~~ of the

18

district and of the people of this state; ~~and will~~

19

(3) be of special benefit to the property within the boundaries of any district created pursuant to the

20 provisions of this part; or

21

(4) aid in tourism, promotion, AND marketing, and sales within the district."

22

23 **Section 2.** Section 7-12-1111, MCA, is amended to read:

24 **"7-12-1111. Establishment or expansion of district.** (1) Upon receipt of a petition signed by the
25 owners of more than 60% of the area of the property proposed in the petition to be included in a district or in the
26 expansion of a district, a governing body shall establish a district or expand a district as provided in this part.

27

(2) The boundaries of a district must comply with applicable zoning regulations, ~~and the~~.

28

(3) The district may not include areas that are zoned primarily as residential areas.

29

(4) (a) A district may be composed of noncontiguous areas if the properties in a district have a common

30

purpose, including but not limited to lodging, recreation, sales, or other activities related to the purposes listed

1 ~~in 7-12-1102~~ OF PROVIDING OVERNIGHT STAYS AT LODGING FACILITIES.

2 (b) The boundaries of a district with noncontiguous areas must encompass all properties in the district
3 with the same identified purpose."

4
5 **SECTION 3. SECTION 7-12-1121, MCA, IS AMENDED TO READ:**

6 **"7-12-1121. Board of trustees -- appointment -- number -- term of office.** (1) When the governing
7 body of a local government adopts an ordinance creating a business improvement district, the appointing
8 authority, with the approval of the governing body, shall appoint not less than five or more than seven owners of
9 property, or their assignees, within the district to comprise the board of trustees of the district. The membership
10 of a board of trustees for a business improvement district created for the purpose of 7-12-1102(4) must include
11 the director of a nonprofit convention and visitors bureau, as defined in 15-65-101, if a nonprofit convention and
12 visitors bureau is operating within the governing body's jurisdiction.

13 (2) The number of members of the board, once established, may be changed within these limits from
14 time to time by subsequent resolutions of the governing body of the local government. A resolution to reduce
15 board membership may not require resignation of any member prior to completion of ~~his~~ the member's appointed
16 term.

17 (3) Three of the members who are first appointed must be designated to serve for terms of 1, 2, and 3
18 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years
19 from the date of their appointments. For a seven-member commission, there must be two additional appointments
20 for terms of 2 years and 3 years, respectively.

21 (4) After initial appointment, members must be appointed for a term of office of 4 years, except that a
22 vacancy occurring during a term must be filled for the unexpired term. A member ~~shall hold~~ holds office until ~~his~~
23 the member's successor has been appointed and qualified."

24
25 **SECTION 4. SECTION 7-12-1132, MCA, IS AMENDED TO READ:**

26 **"7-12-1132. Annual budget and work plan -- approval -- procedure -- tax.** (1) At a time determined
27 by the governing body, the board shall submit to the governing body for approval a work plan and budget for the
28 ensuing fiscal year.

29 (2) A board created for the purpose of 7-12-1102(4) in a municipality or county where a nonprofit
30 convention and visitors bureau, as defined in 15-65-101, is operating shall consult with the nonprofit convention

1 and visitors bureau in developing a work plan and budget for the ensuing fiscal year.

2 ~~(2)~~(3) Following public notice that a work plan and budget have been submitted and that the governing
3 body will levy an assessment to defray the cost of the work plan and budget, the governing body shall hold a
4 public hearing on objections to the work plan and budget. After the hearing, the governing body may modify the
5 work plan and budget as it considers necessary and appropriate.

6 ~~(3)~~(4) After approval of the work plan and budget and to defray the cost ~~thereof~~ of the work plan and
7 budget for the next fiscal year, the governing body shall by resolution levy an assessment upon all of the property
8 in the district using as a basis one of the methods prescribed in 7-12-1133.

9 ~~(4)~~(5) A copy of the resolution ~~shall~~ must be delivered to the treasurer of the local government to be
10 placed on the tax roll and collected in the same manner as other taxes."

11

12 **Section 5.** Section 7-12-1133, MCA, is amended to read:

13 **"7-12-1133. Assessment of costs -- area, lot, taxable valuation, and square footage, and flat-fee**
14 **options -- PROVISIONS FOR PROPERTY CLASSIFICATIONS.** (1) At the same time ~~that~~ the board submits the annual
15 budget and work plan to the governing body as provided in 7-12-1132, the board shall also recommend to the
16 governing body a method of levying an assessment on the property within the district ~~which~~ that will best ensure
17 that the assessment on each lot or parcel is equitable in proportion to the benefits to be received.

18 (2) The governing body shall annually assess the entire cost of the district against the entire district using
19 a method ~~which~~ that best ensures that the assessment on each lot or parcel is equitable in proportion to the
20 benefits to be received. In determining the method of assessment to be used, the governing body shall consider
21 the recommendations of the board. The governing board shall levy the assessment using one of the following
22 methods:

23 (a) each lot or parcel of land within ~~such~~ the district may be assessed for that part of the whole cost
24 ~~which~~ that its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

25 (b) if the governing body determines that the benefits derived by each lot or parcel are substantially
26 equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the
27 area of the lot or parcel;

28 (c) if the governing body determines that benefits derived by each lot or parcel are proportional, the
29 governing body may use a standard criteria, such as individual occupancy or daily use, and make the assessment
30 on a flat-fee basis based on the criteria;

1 ~~(c)~~(d) each lot or parcel of land, including the improvements ~~thereon~~ on the lot or parcel, may be
2 assessed for that part of the whole cost of the district ~~which~~ that its taxable valuation bears to the total taxable
3 valuation of the property of the district;

4 ~~(d)~~(e) each building may be assessed for that part of the whole cost of the district that the occupied or
5 income-producing area of the building above the first floor bears to the area of the entire district; ~~or~~

6 (F) IF THE GOVERNING BODY DETERMINES THAT BENEFITS DERIVED BY EACH LOT OR PARCEL ARE
7 DISPROPORTIONAL, THE GOVERNING BODY MAY USE CLASSIFICATION CRITERIA, SUCH AS LOCATION WITHIN THE DISTRICT,
8 ECONOMIC IMPACT, OR ANY OTHER MEASURABLE CRITERIA, IN CONJUNCTION WITH METHODS OF ASSESSING FEES
9 OUTLINED IN THIS SUBSECTION (2). EACH CLASSIFICATION MUST HAVE ITS OWN RATE. THERE MAY NOT BE MORE THAN SIX
10 CLASSIFICATIONS UPON WHICH A CHARGE IS IMPOSED.

11 ~~(e)~~(f)(g) by using any combination of the assessment options provided in subsections (2)(a) through
12 ~~(2)(d)~~ ~~(2)(e)~~ (2)(F).

13 (3) If a district is expanded, the land within the expanded area or property with a similar purpose in the
14 district must be assessed as provided for in subsection (2) for the duration of the district."

15 - END -



MONTANA'S TOURISM BUSINESS IMPROVEMENT DISTRICT

Montana Communities need to be more competitive in economic development through visitor recruitment. The Tourism BID is the solution.

Did you know:

- Direct annual visitor spending in Montana tops \$2.08 Billion each year by 10.2 million visitors.
- As just one example, Billings has about a \$200,000 annual lodging tax budget to recruit visitors from around the world! These dollars have basically leveled off while our competition grows. Similar size cities to Billings have a \$719,000 annual budget to recruit visitors. (Tri Cities, WA \$1.5 million; Bismarck \$846,000; Cheyenne \$686,000; Eau Claire, WI \$1 million; etc.)
- Direct annual visitor spending in Billings tops \$300 million each year.
- Visitors spend at our local: 1) Restaurants; 2) Retail Stores; 3) Transportation Providers; 4) Lodging Facilities and; 5) Attractions.
- Tourism benefits everyone!

Hospitality partners across Montana have explored various incremental funding opportunities over the years. Developing a Tourism BID will provide the appropriate competitive resources to grow our visitor economy.

What is a Tourism BID?

- 1) The Tourism BID would be a new opportunity for Montana communities to generate additional spending to recruit visitors and grow the economy. If every community were to develop a TBID, we would see nearly \$3 million in incremental tourism marketing.
- 2) Similar models have been developed across the country (Washington, Wisconsin, California).
- 3) The TBID would simply assess visitors an additional flat fee for each night they occupy a hotel room.
- 4) The fee would be collected by the lodging facility, sent to the state and returned to the City or County where it was collected to be used ONLY for tourism promotion, marketing and sales.
- 5) The funds must be used to directly benefit the collector (lodging facilities) through the generation of room nights.

How do we implement a Tourism BID?

- 1) The state would simply need to change existing BID legislation allowing for this fee.
- 2) Local lodging facilities would have to petition local governmental bodies establish a TBID.
- 3) The local governmental bodies would then need to establish the local TBID.

Then what happens?

- 1) The City/County appoints the local Chamber or CVB to be the Tourism BID Manager.
- 2) The local hotel/motel association recommends the appointment of an oversight board for the funds, who would then be appointed by the City/County.
- 3) The Chamber/CVB and the appointed board work to develop a marketing plan and budget to be formally approved by the City/County.
- 4) The lodging facilities collect the funds, send them to the state and in turn are sent to the City/County. The City/County sends the funds to the Chamber/CVB upon approval of the budget.

What are our next steps?

- 1) Gain formal support from as many industry partners as possible.
- 2) Visit with our local state legislators to address any questions they may have.
- 3) Begin to formally write the legislation and obtain legislative sponsors.

no guarantee in proposed legislation

If Billings were to implement a simple \$.75 assessment on each occupied room, and occupancy were to stay at 60%, our roughly 3,500 rooms in the city would generate \$574,875 in incremental tourism promotion spending. Helena would generate about \$203,000; Miles City \$84,000; Great Falls \$303,000. More marketing investment means more visitors and in turn more non-resident spending.